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Remarks

A. Period For Reply

A shortened statutory period for reply was set to expire three months from the mailing date of the outstanding Office Action of May 12, 2004.

B. Status

The Office Action of May 12, 2004 was a non-final action. This is very much appreciated.

C. Disposition of Claims

Claims 15-17, 20-21, 25, 27, 32-33, 35-36, 38, 43-46, and 49-50 are pending.

D. Application Papers

The drawings that were filed on October 17, 2001 (with the filing of this case) were accepted by the Examiner. This is very much appreciated.

E. Priority under 35 U.S.C. §§ 119 and 120

This case does not claim domestic or foreign priority.

F. Attachments

Applicants filed two PTO-1499 forms with the filing of this case. Both of these forms have been returned (with the Office Action of July 17, 2002), signed by the Examiner, and all of the references have been initialed. This is very much appreciated.

G. The Office Action of May 12, 2004

G.1. Section 1 of the Office Action

In section 1 of the Office Action, 35 U.S.C. 102 was set out.

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G.2. Section 2 of the Office Action

In section 2 of the Office Action, claims 15-17, 21, 27, 32, 33, 35, 36, 38, 44, and 46 were rejected under 35 U.S.C. 102(b) as being anticipated by Clemons, U.S. Patent No. 4,858,374. This rejection is respectfully traversed for the reasons discussed below.

G.3. Section 3 of the Office Action: claims 15 and 27

Section 3 of the Office Action relates to claims 15 and 27. Independent claim 15 positively requires:

- c) a cover engagable to the base, wherein the cover has a width greater than a width of the base opening, wherein, when the cover is engaged to the base, a portion of the cover is spaced from the base to form an insect opening between the cover and the base such that insects can have access to the cup through the insect opening;
- d) wherein one of the base and cover includes a key and wherein the other of the base and cover includes a keyhole, wherein the key is brought into the keyhole by drawing the base and cover together, and wherein the key is locked into the keyhole by rotating the cover relative to the base.

Basis for the amendment to independent claim 15 relating to a portion of the cover being spaced from the base to form an insect opening between the cover and the base is 1) page 7, lines 4-5, 2) original claim 18, and 3) the specification as a whole, including the drawings.

It is respectfully submitted that the following six limitations in independent claim 15 are not disclosed by the Clemons document:

- ♦ A portion of the cover being spaced from the base to form an insect opening between the cover and the base (please see the amendment to claim 15). In contrast, the lid 14 (cover) of Clemons is not spaced from the hanger 42 (base) of Clemons to form an insect opening therebetween.
- ♦ A cover engagable to the base. In contrast, in Clemons, the hanger 42 must be engaged to either 1) the lid 14 or to 2) the housing 12. The Clemons patent is ambiguous as to such, merely stating in column 3, lines 25-26, that

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the hanger 42 fits under lid 14. If the hanger 42 is engaged to the lid 14, then the claimed requirement of an end portion of the cup engaging the base is not met (and, besides, in this interpretation, the hanger 42 would tend to pull the lid 14 off the housing 12). If the hanger 42 is engaged to the housing (cup) 12, then the claimed requirement of a cover (lid 14) engaged to a base (hanger 42) is not met.

- ◆ A hole. In contrast, Clemons discloses a seal flange 26.
- ◆ A keyhole. In contrast, Clemons discloses a seal flange 26.
- ◆ A lockable key and keyhole. In contrast, Clemons discloses a snap fit connection, not a lock connection.
- ◆ A lockable key and keyhole that requires the step of drawing and that further requires the step of rotation. In contrast, Clemons discloses merely a step of drawing.

On the basis of any one of the above noted six differences, allowance of independent claim 15 is respectfully requested.

As to independent claim 27, this claim positively recites:

- c) a retainer for confronting each of the base and the cup when the cup is engaged in the base, wherein the retainer engages the base and confronts the base about at least a portion of the base opening, wherein the retainer confronts the cup about at least a portion of the upper edge of the cup;
- f) wherein one of the base and cover includes a key and wherein the other of the base and cover includes a keyhole, wherein the key is brought into the keyhole by drawing the base and cover together, and wherein the key is locked into the keyhole by rotating the cover relative to the base.

It is respectfully submitted that the following limitations in independent claim 27 are not disclosed by the Clemons document:

- ◆ The retainer. It is noted that claim 27 requires a cup, a base, a retainer, and a cover. In contrast, Clemons discloses a lid but fails to teach anything related to a retainer. (It is further noted that the Office Action asserts no element to be the equivalent of the retainer.)

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- ◆ A hole. In contrast, Clemons discloses a seal flange 26.
- ◆ A keyhole. In contrast, Clemons discloses a seal flange 26.
- ◆ A lockable key and keyhole. In contrast, Clemons discloses a snap fit connection, not a lock connection.
- ◆ A lockable key and keyhole that requires the step of drawing and that further requires the step of rotation.

In contrast, Clemons discloses merely a step of drawing. On the basis of any one of the above five differences, allowance of independent claim 27 is respectfully requested.

G.4. Section 4 of the Office Action: claims 16, 17, 32, 33 and 35

Section 4 of the Office Action relates to claims 16, 17, 32, 33 and 35.

As to dependent claims 16 and 17, these claims are dependent upon claim 15 which is respectfully asserted to be allowable.

As to independent claims 32 and 33, each of these claims has been amended to positively recite:

e) wherein said key doubles as a leg to engage and space the first and second pieces relative to each other such that an insect opening is formed between the first and second pieces.

Basis for the amendment to independent claims 32-33 is 1) page 7, lines 4-5, 2) original claim 18, 3) page 11, line 25 where "legs or keys" are called out, and 4) the specification as a whole, including the drawings.

The Clemons reference does not disclose or teach the above noted requirement of the key doubling as a leg to engage and space the first and second pieces relative to each other such that an insect opening is formed between the first and second pieces. Allowance of claims 32-33 is therefore respectfully requested.

As to independent claim 35, no amendments have been made to this claim. The claim includes the following limitation that is

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not disclosed or suggested by the Clemons reference:

d) wherein the entrance includes a flap foldable between a relatively closed position and a relatively open position whereby a size of the entrance may be adjusted, and wherein the flap comprises a tip, wherein the tip extends into the harborage such that an insect attempting to leave the harborage encounters the tip.

The Clemons reference does not disclose or suggest the above noted underlined claim limitation. (Also, it should be noted that the Office Action asserts no equivalent element of the above noted claim limitation in the Clemons reference.) Allowance of independent claim 35 is therefore respectfully requested.

G.5. Section 5 of the Office Action: claim 21

Section G.5 of the Office Action relates to independent claim 21. Independent claim 21 includes the following limitation:

c) a network of lines, wherein the network is disposed in the cup, wherein the network includes a height sufficient to extend between about the floor of the cup and at least to a height defined by the opening of the cup such that insects may utilize the network as a ladder to climb into and out of the cup.

The Office Action asserts that the bee entrance tubes 16 meet the limitation noted above. This is respectfully traversed because network means "an openwork fabric or structure in which cords, threads, or wires cross at regular intervals." Please see the American Heritage® Dictionary of the English Language, Fourth Edition, Copyright © 2000 by Houghton Mifflin Company. The bee entrance tubes 16 do not meet such a definition. None of the bee entrance tubes 16 crosses with another such tube 16.

Further, the bee entrance tubes 16 do not include a height sufficient to extend between about the floor of the cup and at least to a height defined by the opening of the cup.

Allowance of independent claim 21 is therefore respectfully requested.

G.6. Section 6 of the Office Action: claim 36

Section 6 of the Office Action relates to independent claim

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36. Independent claim 36 includes the following limitation:

c) wherein said entrance is adjustable in size depending upon a type of insect to be trapped;

Such limitation is neither disclosed nor suggested by the Clemons reference. Clemons teaches that a dimension B should be between 6 and 13 millimeters, but does not teach adjustment. With the Clemons invention, to get another size, one must purchase another cup. Further, the Office Action does not assert that any equivalent exists in the Clemons reference. Allowance of independent claim 36 is therefore respectfully requested.

G.7. Section 7 of the Office Action: claim 38

Section 7 of the Office Action relates to independent claim

38. This claim includes the following limitation:

d) wherein the harborage further comprises a portion forming said entrance and another portion spaced from the entrance, wherein said portion forming said entrance is of a relatively dark color to minimize transmission of light through said entrance, and wherein said another portion transmits light.

Such limitation is discussed in applicant's specification on page 18, lines 22-26, which follows below:

The one-way disk 122 is preferably used with a cup 16 that transmits light. The one-way disk 122 is preferably of a darker color and more preferably is black to minimize transmission of light through retainer opening 85 and disk apertures 130 so as to minimize the chances of flying insects being attracted to the exit of the station 10.

The above noted limitation is neither disclosed nor taught by the Clemons reference, and the Office Action does not point to specific portions of the Clemons specification that teaches such.

In contrast, the Clemons reference teaches no dark color to minimize transmission of light and in fact teaches away in column 2, lines 5-7 where Clemons discloses that "By making housing 12 from a transparent material, the attractant liquid will be visible to bees which is believed to enhance its attracting effect." Allowance of independent claim 38 is therefore respectfully requested.

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G.8. Section 8 of the Office Action: claims 44, 46 and 50

Section 8 of the Office Action relates to dependent claims 44, 46 and 50.

As to dependent claim 44, this claim is dependent upon independent claim 15, which is respectfully submitted to be allowable. The arguments as to claim 15 are relevant.

As to dependent claim 46, this claim is dependent upon independent claim 25, which has been allowed. Allowance of dependent claim 46 is therefore respectfully requested.

As to dependent claim 50, this claim is dependent upon independent claim 36, which is respectfully submitted to be allowable. The arguments as to claim 36 are relevant.

G.9. Section 9 of the Office Action

In section 9 of the Office Action a quotation of 35 U.S.C. 103(a) is relevant.

G.10. Section 10 of the Office Action

In section 10 of the Office Action, claims 43, 45 and 49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Clemons (U.S. Patent No. 4,858,374). This rejection is respectfully traversed on the basis of applicant's discussion below.

G.11. Section 11 of the Office Action: claims 43, 45 and 49

Section 11 of the Office Action relates to dependent claims 43, 45 and 49.

As to dependent claim 43, this claim is dependent upon independent claim 15, which is respectfully submitted to be allowable. The arguments as to claim 15 are relevant.

As to dependent claim 45, this claim is dependent upon independent claim 25, which has been allowed. Allowance of dependent claim 45 is therefore respectfully requested.

As to dependent claim 49, this claim is dependent upon

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independent claim 36, which is respectfully submitted to be allowable. The arguments as to claim 36 are relevant.

G.12. Section 12 of the Office Action

Section 12 of the Office Action relates to sections 9-11 of the Office Action, which have been addressed above.

G.13. Section 13 of the Office Action

In section 13 of the Office Action, prior art made of record, not relied upon, and considered pertinent, is listed. Further, contact information with the USPTO was set out.

H. Summary

Allowance of claims 20 and 25 is appreciated. Allowance of claims 15-17, 20-21, 25, 27, 32-33, 35-36, 38, 43-46, and 49-50 is respectfully requested.

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 8-5-04
SIGNATURE OF PRACTITIONER

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